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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92055374
Party	Plaintiff Joel L. Beling d/b/a Supa Characters Pty Ltd
Correspondence Address	JOEL L BELING 1 MIRBOO COURT DALLAS VICTORIA, 3047 AUSTRALIA joelbeling@hotmail.com
Submission	Opposition/Response to Motion
Filer's Name	Joel Beling
Filer's e-mail	joelbeling@hotmail.com
Signature	/joel beling/
Date	09/07/2012
Attachments	Exhibit A1Opp's Objs and Resp to App's 3rd RFA.pdf (6 pages)(1997920 bytes) Exhibit A2 Opp's_Objs_and_Ans_to_ROGS.pdf (7 pages)(2473772 bytes) Exhibit A3 Opp's_Objs_and_Resp_to_App's_2nd_RFA[1].pdf (10 pages)(3951417 bytes) Exhibit A4 Opp's_Objs_and_Resp_to_App's_RFA.pdf (12 pages)(4155209 bytes) Exhibit A5 Opp's_Objs_and_Resp_to_RFP.pdf (10 pages)(3505953 bytes) Exhibit A6 - Reg's_Objs_and_Ans_to_1st_ROGS.pdf (7 pages)(2317569 bytes) Exhibit A7 Reg's_Objs_and_Ans_to_2nd_ROGS[1].pdf (4 pages)(1262062 bytes) Exhibit A8 Reg's_Objs_and_Resp_to_RFA.pdf (12 pages)(4303781 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.)	
)	
Opposer)	
)	
v.)	Opp. No. 91203884
)	
)	
Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Applicant)	
)	

**OPPOSER'S OBJECTIONS AND RESPONSES TO
APPLICANT'S THIRD REQUEST FOR ADMISSIONS**

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas, Victoria 3047, Australia.

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Ennis, Inc. ("Opposer") hereby serves its Objections and Responses to Applicant's Third Request for Admissions on Joel L. Beling d/b/a Supa Characters Pty Ltd ("Applicant").

**I.
OBJECTIONS APPLICABLE TO ALL
ADMISSIONS, INSTRUCTIONS AND DEFINITIONS**

Opposer agrees to respond to Applicant's Third Request for Admissions to the extent that Opposer is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Opposer further objects to the definitions and instructions set forth in Applicant's Third Request for Admissions to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Opposer will use the commonly accepted definition of words and phrases in responding to the Admissions.

Opposer hereby objects to all of the above-referenced definitions in each and every request in which they are used as if objected to on the above-stated basis individually, and Opposer responds to all Admissions listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND RESPONSES TO REQUEST FOR ADMISSIONS

REQUEST NO. 80: Exhibit 34A of Applicant's Motion to Compel Discovery Responses, Opposer's 2000 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 81: Exhibit 34B of Applicant's Motion to Compel Discovery Responses, Opposer's 2001 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 82: Opposer's 2002 Annual Report, attached hereto, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 83: Exhibit 34D of Applicant's Motion to Compel Discovery Responses, Opposer's 2003 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 84: Exhibit 34E of Applicant's Motion to Compel Discovery Responses, Opposer's 2004 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 85: Exhibit 34F of Applicant's Motion to Compel Discovery Responses, Opposer's 2005 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 86: Exhibit 34G of Applicant's Motion to Compel Discovery Responses, Opposer's 2006 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 87: Exhibit 34H of Applicant's Motion to Compel Discovery Responses, Opposer's 2007 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 88: Exhibit 34I of Applicant's Motion to Compel Discovery Responses, Opposer's 2008 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 89: Exhibit 34J of Applicant's Motion to Compel Discovery Responses, Opposer's 2009 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 90: Exhibit 34K of Applicant's Motion to Compel Discovery Responses, Opposer's 2010 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 91: Exhibit 34L of Applicant's Motion to Compel Discovery Responses, Opposer's 2011 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 92: Exhibit 34M of Applicant's Motion to Compel Discovery Responses, Opposer's 2012 Annual Report, served on you on the 10th July 2012 by Applicant, is a genuine document created by Opposer.

RESPONSE: Admit to the extent the request intended to state that the document was served on July 9, 2012 rather than the erroneously stated July 10, 2012 and to the extent the document referenced in the admission request is identical to any public disclosure made by Opposer. Otherwise, denied.

REQUEST NO. 93: All Opposer's responses to Applicant's Discovery requests to date have been true and correct in every particular.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at

trial.

REQUEST NO. 94: Opposer stands by all of, and would not like to change any of, its responses to Applicant's previous Discovery requests.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 95: At the time it made its Discovery responses to Applicant's previous Discovery requests, Opposer was aware that its responses and/or answers were under oath.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 96: At the time its Discovery responses to Applicant's previous Discovery requests, Opposer was aware that its responses and/or answers were under oath and that this meant it had sworn to tell the truth.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 97: The law firm Chalker Flores LPP advised Ennis Inc of the seriousness, meaning and importance of avoiding the commission of perjury in its Discovery responses to Applicant.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 98: The law firm of Chalker Flores LPP gave legal advice to Ennis Inc in respect of responding to and/or answering Applicant's previous Discovery request.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

Dated: August 13, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 
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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S THIRD REQUEST FOR ADMISSIONS was served on all parties, this the 13th day of August, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com


Thomas G. Jacks

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.)	
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Opposer)	
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)	Opp. No. 91203884
v.)	
)	
)	
Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Applicant)	
)	
)	

**OPPOSER'S OBJECTIONS AND ANSWERS
TO APPLICANT'S FIRST SET OF INTERROGATORIES**

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas, Victoria 3047, Australia.

Ennis, Inc. ("Opposer") serves these objections and answers to Applicant, Joel L. Beling d/b/a Supa Characters Pty Ltd's Interrogatories ("Applicant") as authorized by Federal Rule of Civil Procedure 33 and Trademark Rule 2.120(d), 37 C.F.R. § 2.120(d).

I.
OBJECTIONS APPLICABLE TO ALL
INTERROGATORIES, INSTRUCTIONS AND DEFINITIONS

Opposer agrees to answer Applicant's Interrogatories to the extent that Opposer is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Opposer further objects to the definitions and instructions set forth in Applicant's First Set of Interrogatories to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Opposer will use the commonly accepted definition of words and phrases in answering the Interrogatories.

Opposer hereby objects to all of the above-referenced definitions in each and every Interrogatory in which they are used as if objected to on the above-stated basis individually, and Opposer answers all Interrogatories listed below subject to, and without waiving, the above-stated objections.

II.
OBJECTIONS AND ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: Specify the date and describe the details of Opposer's first use of "COLORWORX" mark on any works of color, including but not limited to business cards, letterhead, rack cards, postcards, brochures, and posters and identifying all persons involved and all materials referring or relating to the usage.

ANSWER: Opposer objects to this Interrogatory as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Opposer has continuously used the COLORWORX mark in interstate commerce as a trademark for a variety of printing goods and printing services, including, but not limited to, business cards, letterhead, sell sheets, rack cards, postcards, brochures and posters since August of 2002. Opposer refers Applicant to Opposer's document production produced on May 24, 2012 showing various other items Opposer uses its COLORWORX mark on including, but not limited to, various advertising tools and promotional items, financial tools, hospitality products, award products and business products.

INTERROGATORY NO. 2: Describe in detail the process, procedure, facts, material and information you use for each of the works of color offered for sale by you, including but not limited to business cards, letterhead, rack cards, postcards, brochures, and posters, from the point at which a customer first contacts you to the point at which your customer is satisfied, including any system, process or procedure for satisfying dissatisfied customers.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 3: Identify and describe in detail each possible color choice, including black and white, you currently offer or have offered to your customers for each work of color you sell, advertise, promote or distribute, including but not limited to business cards, letterhead, rack cards, postcards, brochures, and posters.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 4: Define in detail your understanding of the phrases “color works” and “works of color.”

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 5: Identify the media in or through which Opposer advertises or promotes its works of color, including but not limited to business cards, letterhead, rack cards, postcards, brochures, and posters, under or with the “COLORWORX” mark.

ANSWER: Opposer objects to this Interrogatory as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Opposer has continuously used the COLORWORX mark in interstate commerce as a trademark for a variety of printing goods and printing services, including, but not limited to, business cards, letterhead, sell sheets, rack cards, postcards, brochures and posters since August of 2002. Opposer refers Applicant to Opposer’s document production produced on May 24, 2012 showing various other items Opposer uses its COLORWORX mark on including, but not limited to, various advertising tools and promotional items, financial tools, hospitality products, award products and business products.

INTERROGATORY NO. 6: Identify each person or the entity whom distributed, circulated, sold, or advertised your works of color, including but not limited to business cards, letterhead,

rack cards, postcards, brochures, and posters, in connection with the "COLORWORX" mark, including whether any contract exists for distribution, circulation, sale, or advertisement.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 7: Identify all facts, laws, information, or materials that Opposer relies on to support the contention that all or part of the mark "COLOR WARS" is confusingly similar to the mark "COLORWORX®".

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

INTERROGATORY NO. 8: Identify all facts, laws, information, or materials that Opposer relies on to support the contention that there is a likelihood of confusion and/or deception between any trademark, service mark, domain name, or other designation of Opposer and any trademark, service mark, domain name, or other designation of Applicant.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

INTERROGATORY NO. 9: Describe in detail the similarities and/or points of confusion and/or deception between the word "wars" and the word "works."

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 10: Identify all facts, laws, information, or materials that Opposer relies on to support the contention that Applicant's mark is the same as, or substantially the same as, Opposer's mark in visual appearance and in pronunciation.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

INTERROGATORY NO. 11: Identify each officer of any company and/or business connected with the design, sale, marketing, advertising, promotion and distribution of works of color connected to the "COLORWORX" mark, including each officer's name, title, address, and job duties.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 12: Identify each person who participated in the selection, design and adoption of the "COLORWORX" mark.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 13: Describe in detail the role and contributions made that each person identified in Interrogatory number 12 played in the selection, design and adoption of the "COLORWORX" mark.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 14: Describe in detail the rationale, philosophy and ideas behind the selection, design and adoption of each feature and/or part of the "COLORWORX" mark, including the logo, words, style of lettering, visual appearance, sound, compound/composite nature and misspelling.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 15: Describe in detail your understanding of the connections between each aspect of your answer to Interrogatory No. 14 and the works of color you sell, promote, advertise and distribute, including but not limited to business cards, letterhead, rack cards, postcards, brochures, and posters.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 16: Identify every opinion, legal or otherwise, requested or received by you, regarding the right to use the marks "COLORWORX," "COLOR WORX," "COLORWORKS," or "COLOR WORKS," including the identity of the persons requesting the opinion, the date and substance of the opinion, and the persons receiving the opinion.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Opposer asserts the attorney-client and work-product privileges.

INTERROGATORY NO. 17: Describe in detail any instances in which you have been involved which have called into question, created conflict in respect of, or challenged the right to use the marks “COLORWORX,” “COLOR WORX,” “COLORWORKS,” or “COLOR WORKS.”

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 18: Describe in detail any plans for future expansion, including but not limited to, expansion of marketing lines, services, customer base or geographical areas served, and goods and services in international classes 16 and 41.

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

INTERROGATORY NO. 19: Identify and describe all facts, laws, information, or materials that Opposer found, discovered, became aware of and/or knew about before, during and after its registration of the COLORWORX mark involving use of the marks “COLORWORX,” “COLOR WORX,” “COLORWORKS,” or “COLOR WORKS.”

ANSWER: Opposer objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Opposer asserts the attorney-client and work-product privileges.

Dated: June 11, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 

Scott A. Meyer

State Bar No. 24013162

Thomas G. Jacks

State Bar No. 24067681

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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S OBJECTIONS AND ANSWERS TO APPLICANT'S FIRST SET OF INTERROGATORIES was served on all parties, this the 11 day of June, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Scott A. Meyer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.)	
)	
Opposer)	
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v.)	Opp. No. 91203884
)	
Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Applicant)	
)	

**OPPOSER'S OBJECTIONS AND RESPONSES TO
APPLICANT'S SECOND REQUEST FOR ADMISSIONS**

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas, Victoria 3047, Australia.

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Ennis, Inc. ("Opposer") hereby serves its Objections and Responses to Applicant's Second Request for Admissions on Joel L. Beling d/b/a Supa Characters Pty Ltd ("Applicant").

**I.
OBJECTIONS APPLICABLE TO ALL
ADMISSIONS, INSTRUCTIONS AND DEFINITIONS**

Opposer agrees to respond to Applicant's Admissions to the extent that Opposer is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Opposer further objects to the definitions and instructions set forth in Applicant's Second Request for Admissions to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Opposer will use the commonly accepted definition of words and phrases in responding to the Admissions.

Opposer hereby objects to all of the above-referenced definitions in each and every request in which they are used as if objected to on the above-stated basis individually, and Opposer responds to all Admissions listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND RESPONSES TO REQUEST FOR ADMISSIONS

REQUEST NO. 42: You would suffer considerable loss of reputation, good will and other intangible assets if your investors, shareholders, distributors and customers ascertained that you had committed fraud on the United States Patent and Trademark Office by applying for and obtaining a trademark registration for the COLORWORX mark when you had no legal right and/or good faith basis and/or factual foundation for doing so.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 43: Goods and services sold under the "COLORWORX" brand are currently designed to serve the short run color needs of Ennis Inc's distributors.

RESPONSE: The "short run color needs" of Ennis Inc's distributors is irrelevant to this matter and, therefore, Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 44: You have used the slogan “Uniqueness is the mark of success” in relation to your business.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer’s COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 45: You have used the slogan “Uniqueness is the mark of success” in relation to your business when you knew or ought to have known when you applied for and obtained the trademark registration for the COLORWORX mark with the United States Patent and Trademark Office that other traders use the marks “ColorWorx,” “Color Worx,” “Colorworks,” and/or “Color Works” marks in commerce in general and/or in the printing industry in particular in the United States.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer’s COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 46: You always, without exception, follow the standards set out in your Code of Business Conduct and Ethics for Directors and Employees.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer’s COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 47: The private printers and/or distributors you sell your goods and services to in the United States can distinguish between printed goods and services sold, marketed and promoted under your COLORWORX mark and printed goods and services sold, marketed and promoted under a COLOR WARS mark based on cartoon characters and/or superheroes.

RESPONSE: Denied.

REQUEST NO. 48: It was not always possible to transform your product offerings to continue to provide innovative, unique and valuable solutions to your customers on a proactive basis.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer’s COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 49: Your COLORWORX mark has the capacity to distinguish, and in fact distinguishes, your goods and services from the goods and services of other traders who use the marks “ColorWorx,” “Color Worx,” “ColorWorks,” and/or “Color Works.”

RESPONSE: Admitted.

REQUEST NO. 50: Individual non-business retail customers are not the intended target market for goods and services sold under the ColorWorx brand.

RESPONSE: Denied.

REQUEST NO. 51: Goods and services sold under the “ColorWorx” brand were designed to serve the short run color needs of Ennis Inc’s distributors.

RESPONSE: The “short run color needs” of Ennis Inc’s distributors is irrelevant to this matter and, therefore, Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 52: As a result of your fear of exposure for committing fraud on the United States Patent and Trademark Office by applying for and obtaining a trademark registration for the COLORWORX mark when you had no legal right and/or good faith basis and/or factual foundation for doing so, you would not and/or will not do anything to conceal that fraud.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 53: The law firm of Chalker Flores LLP discovered that Ennis Inc had committed fraud on the United States Patent and Trademark Office by applying for and obtaining a trademark registration for the COLORWORX mark when Ennis Inc knew that other traders used the “ColorWorx,” “Color Worx,” “Colorworks,” and/or “Color Works” marks in commerce in general and/or in the printing industry in particular in the United States and did nothing to encourage Ennis Inc to take corrective action (for example, by advising Ennis Inc to voluntarily cancel its “COLORWORX” registration).

RESPONSE: Opposer objects to the request because it assumes facts not in evidence, is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 54: Improvements in the cost and quality of printing technology are enabling some of your competitors to gain access to products of complex design and functionality at competitive costs.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous

because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 55: Because of the need to transform your portfolio of products, excess production capacity and price competition within your industry, and economic uncertainties, it was necessary for your company to introduce new products within a short amount of time in order to enable your distributors to attract new customers and retain existing customers.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 56: You are in the business of manufacturing, designing, and selling business forms and other printed business products primarily to distributors located in the United States.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark.

REQUEST NO. 57: Your competitors' access to improved printing technologies is one factor which is forcing you to provide products and services which satisfy customers' short run color needs in order to enable your distributors to attract new customers and retain existing customers.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 58: Because of the need to transform your portfolio of products, excess production capacity and price competition within your industry, and economic uncertainties, it is necessary for your company to introduce new products within a short amount of time in order to enable your distributors to attract new customers and retain existing customers.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 59: Your COLORWORX mark has the capacity to significantly distinguish, and in fact significantly distinguishes, your goods and services from the goods and services of

other traders who use the marks "ColorWorx," "Color Worx," "ColorWorks," and/or "Color Works."

RESPONSE: Admitted.

REQUEST NO. 60: Because of the need to transform your portfolio of products, excess production capacity and price competition within your industry, and economic uncertainties, it is necessary for your company to take risks in order to gain a competitive edge.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 61: It was not always possible to expand your growth targeted products and develop new market niches.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 62: In order to offset the decreases in profits because of the obsolescence of your standardized business forms products, you were eager to provide products which offered custom and color print jobs.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 63: As a result of intense competition in the printing industry and declining profits in the Print Segment, you were and are more willing to take risks in developing custom and color print jobs.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 64: The Color Worx brand has built up a significant reputation in the United States because of its popularity among customers.

RESPONSE: Opposer's mark is COLORWORX not Color Worx and therefore objects to this request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 65: As a result of the recessionary conditions of 2009 and 2010, and the resultant volatile and challenging economic climate, you were willing to take calculated risks in order to combat decreased demand and intense price competition.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 66: The drop in profits caused by the gradual obsolescence of your standardized forms business was a major blow to your business.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 67: Because of the need to transform your portfolio of products, excess production capacity and price competition within your industry, and economic uncertainties, it was necessary for your company to take risks in order to gain a competitive edge.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 68: You felt threatened by the competition posed by low price, high value office supply chain stores which offer standardized business forms, checks and related products.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 69: You are facing the following challenges in the Print Segment of your business: transformation of your portfolio of products; excess production capacity and price competition within our industry; and economic uncertainties.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 70: The downturn in the economy and turmoil in the credit markets in 2009 and 2010 have created highly competitive conditions in the printing industry in an already over-supplied, price-competitive industry.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 71: Despite the fact that other traders use the marks "ColorWorx," "Color Worx," "ColorWorks," and/or "Color Works," you were confident at the time of applying for trademark registration with the United States Patent and Trademark Office that your COLORWORX mark would have an indefinite life as a registered trademark.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 72: There is intense competition in the printing industry with respect to the sale of presentation products.

RESPONSE: Opposer objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 73: Your Print Segment faces intense competition to gain market share since your competition may follow a strategy of selling their products at or below cost in order to cover some amount of fixed costs, especially in distressed economic times.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 74: The private printers and/or distributors you sell your goods and services to in the United States possess specialized knowledge of the printing business, since they sell printed goods and printing services to their own customers.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 75: Because of the threat posed by low price, high value office supply chain stores, you were eager to provide products and services which satisfy customers' short run color needs in order to enable your distributors to attract new customers and retain existing customers.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 76: Your COLORWORX mark does not have the capacity to distinguish, and in fact does not distinguish, your goods and services from the goods and services of other traders who use the marks "ColorWorx," "Color Worx," "ColorWorks," and/or "Color Works."

RESPONSE: Denied.

REQUEST NO. 77: Judging on net sales data in the Printing Segment for the 2011, 2010 and 2009 fiscal years, you were not able, in the 2010 and 2011 fiscal years, to successfully combat the combined effect of the economic recession and the adoption of digital technologies.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 78: Your profits had dropped because of the gradual obsolescence of your standardized forms business.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 79: As a result of the recessionary conditions of 2009 and 2010, and the

resultant volatile and challenging economic climate, you were willing to take calculated risks in order to combat decreased demand and intense price competition.

RESPONSE: Opposer objects to the request as it assumes facts not in evidence, is overbroad, vague, and ambiguous because it does not limit the request to Opposer's COLORWORX mark. Opposer further objects to the request because it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

Dated: July 25, 2012

Respectfully submitted,

CHALKER FLORES, LLP

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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S SECOND REQUEST FOR ADMISSIONS was served on all parties, this the 25th day of July, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Scott A. Meyer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.)	
)	
)	
Opposer)	
)	
)	Opp. No. 91203884
v.)	
)	
)	
Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Applicant)	
)	
)	

**OPPOSER’S OBJECTIONS AND RESPONSES TO
APPLICANT’S FIRST REQUEST FOR ADMISSIONS**

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas, Victoria 3047, Australia.

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Ennis, Inc. (“Opposer”) hereby serves its Objections and Responses to Applicant’s First Request for Admissions on Joel L. Beling d/b/a Supa Characters Pty Ltd (“Applicant”).

**I.
OBJECTIONS APPLICABLE TO ALL
ADMISSIONS, INSTRUCTIONS AND DEFINITIONS**

Opposer agrees to respond to Applicant’s Admissions to the extent that Opposer is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Opposer further objects to the definitions and instructions set forth in Applicant's First Request for Admissions to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Opposer will use the commonly accepted definition of words and phrases in responding to the Admissions.

Opposer hereby objects to all of the above-referenced definitions in each and every request in which they are used as if objected to on the above-stated basis individually, and Opposer responds to all Admissions listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND RESPONSES TO REQUEST FOR ADMISSIONS

REQUEST NO. 1: Opposer sells printed goods and printing services which involve the use of color.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 2: Color is an essential and indispensable feature of Opposer's printing business.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Opposer admits that the four color process is part of the printing industry. Otherwise, denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 3: Color, and the use of color, are generic parts of the goods and services offered for sale by all traders who offer printed goods and printing services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 4: Color, and the use of color, are descriptive parts of the goods and services offered for sale by all traders who offer printed goods and printing services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 5: Opposer offers printed goods and printing services to the general public in color or in black and white.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 6: A customer of Opposer may choose to purchase a good or service sold by Opposer in color or in black and white.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 7: A customer of Opposer may choose to purchase a good or service sold by Opposer in at least one of four colors, the choice of color being with the customer.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 8: Opposer does not claim exclusive right to use of the word "color" in relation to printed goods and printing services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 9: The word “Worx” has the same or substantially similar meaning as the word “works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 10: The word “Worx” has the same or substantially similar sound as the word “works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 11: The word “Worx” has the same or substantially similar appearance as the word “works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 12: The word “Worx” has the same or substantially similar commercial impression as the word “works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 13: The word “Worx” is an insignificant misspelling of the word “works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 14: Opposer does not claim exclusive right to use of the word “works” in relation to printed goods and printing services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 15: Opposer’s customers often ask, either orally or in writing, for printed goods and printing services using the phrase “ColorWorx.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied as customers use “COLORWORX” in reference to Opposer’s business name, not a printing process, and to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 16: When the two ordinary words “color” and “works” are joined into a compound (namely ColorWorks), they form a phrase which has a commonly understood meaning, i.e., works of color.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark..

REQUEST NO. 17: The compound word “ColorWorx” has the same or substantially similar meaning as the words “color works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 18: The compound word “ColorWorx” has the same or substantially similar sound as the words “color works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 19: The compound word “ColorWorx” has the same or substantially similar appearance as the words “color works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 20: The compound word “ColorWorx” has the same or substantially similar commercial impression as the words “color works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 21: The compound word “ColorWorx” is an insignificant and/or minor misspelling and/or abbreviation of the words “color works.”

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer’s rights in and to its registered COLORWORX mark.

REQUEST NO. 22: The compound word “ColorWorx” alone, without Opposer’s logo/design, is not distinctive of, and fails to distinguish, Opposer’s goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer

answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 23: Opposer offers for sale goods and services which, according to standard dictionary definitions of the words "Color" and "Works," may be classified as color works.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 24: Opposer adopted the word ColorWorx as its mark because the words Color Works or ColorWorks were likely to cause confusion, mistake or deceive with the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 25: Leaving aside, and independent of, the compound word "ColorWorx," the logo/design in Opposer's mark is highly distinctive and capable of distinguishing Opposer's goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 26: Leaving aside, and independent of, the compound word "ColorWorx," the logo/design in Opposer's mark is distinctive and capable of distinguishing Opposer's goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 27: Leaving aside, and independent of, the compound word "ColorWorx," the

logo/design in Opposer's mark is moderately distinctive and capable of distinguishing Opposer's goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 28: Leaving aside, and independent of, the compound word "ColorWorx," the logo/design in Opposer's mark is weak and not capable of distinguishing Opposer's goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 29: In the creation of its mark, Opposer added a logo/design because the words ColorWorx did not distinctly distinguish its goods and services from the goods and services of other traders.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 30: The word "works" has a dissimilar and/or different meaning to the word "wars."

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 31: The word "works" has a dissimilar and/or different commercial impression to the word "wars."

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at

trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 32: The general public can distinguish between the words "works" and "wars."

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied to the extent the request has any bearing on Opposer's rights in and to its registered COLORWORX mark.

REQUEST NO. 33: Opposer has no intention of expanding its business to include goods and services in international class 41.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 34: Opposer's primary concern with Applicant's international class 41 application is that, if Applicant sold goods and services in this class under its applied-for mark, it would be likely to dilute Opposer's business, good name and reputation.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied.

REQUEST NO. 35: Opposer has built up such a reputation in its mark that if the general public heard the compound word "ColorWorx" (without seeing Opposer's logo), they would be likely to think of and connect this word with Opposer's business and/or goods and services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Admit.

REQUEST NO. 36: Opposer has sold and currently sells some printed goods and printing services which are not sold under the Opposer's "ColorWorx" mark.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied.

REQUEST NO. 37: Opposer has used and currently uses distributors to sell some of its printed goods and printed services, such distributors not using the ColorWorx mark.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer answers as follows: Denied.

REQUEST NO. 38: Prior to applying to the United States Trademark and Patent Office for registration of its mark, Opposer, by itself and through its attorneys and agents, conducted a thorough check and search of all commercial uses of the words “Color Works” and “ColorWorx” in the United States, including but not limited to internet searches and searches of the USPTO trademark database.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Opposer asserts the attorney-client and work-product privileges.

REQUEST NO. 39: At the time it applied for registration of its mark with the United States Trademark and Patent Office, Opposer was aware and had knowledge that other traders outside the printing industry used the words “Color Works” and/or “ColorWorx” to indicate the origin of their goods and services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 40: At the time it applied for registration of its mark with the United States Trademark and Patent Office, Opposer was aware and had knowledge that other traders in fields related to the printing industry used the words “color Works” and/or “ColorWorx” to indicate the origin of their goods and services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 41: At the time it applied for registration of its mark with the United States Trademark and Patent Office, Opposer was aware and had knowledge that other traders in fields closely related to the printing industry used the words “color Works” and/or “ColorWorx” to indicate the origin of their goods and services.

RESPONSE: Opposer objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

Dated: June 11, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 

Scott A. Meyer

Texas Bar No. 24013162

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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S OBJECTIONS AND RESPONSES TO APPLICANT'S REQUEST FOR ADMISSIONS was served on all parties, this the 11th day of June, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Scott A. Meyer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 85/324,443
For the Mark: COLOR WARS
Filed: May 18, 2011
Published in the Official Gazette: January 17, 2012

Ennis, Inc.)	
)	
)	
Opposer)	
)	
)	
v.)	Opp. No. 91203884
)	
)	
Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Applicant)	
)	
)	

**OPPOSER'S OBJECTIONS AND RESPONSE TO
APPLICANT'S FIRST REQUEST FOR PRODUCTION**

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas, Victoria 3047, Australia.

Ennis, Inc. ("Opposer") serves these Objections and Responses to Applicant, Joel L. Beling d/b/a Supa Characters Pty Ltd's Request for Production ("Applicant") as authorized by Federal Rule of Civil Procedure 34 and Trademark Rule 2.120(d), 37 C.F.R. § 2.120(d).

I.
**OBJECTIONS APPLICABLE TO ALL
REQUESTS, INSTRUCTIONS AND DEFINITIONS**

Opposer agrees to respond to Applicant's Requests to the extent that Opposer is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Opposer further objects to the definitions and instructions set forth in Applicant's First Request for Production to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Opposer will use the commonly accepted definition of words and phrases in answering the Requests.

Opposer hereby objects to all of the above-referenced definitions in each and every Request in which they are used as if objected to on the above-stated basis individually, and Opposer respond to all Requests listed below subject to, and without waiving, the above-stated objections.

II.
**OBJECTIONS AND RESPONSES TO
REQUESTS FOR PRODUCTION**

REQUEST 1: Produce working papers, notes, calculations, diagrams, photographs, models, exhibits, and other materials, including reports and factual observations, prepared or reviewed by any expert who will testify at trial on Opposer's behalf.

RESPONSE: None at this time.

REQUEST 2: Produce copies of all transcripts of testimony previously provided by any individual listed by You as an expert witness.

RESPONSE: None at this time.

REQUEST 3: Produce treatises, rules, regulations, guidelines, statutes, policies, procedures, and any other authoritative materials considered by any testifying expert in forming an opinion.

RESPONSE: None at this time.

REQUEST 4: Produce invoices, bills, and other billing materials for each expert You expect will testify at trial.

RESPONSE: None at this time.

REQUEST 5: Produce all photographs, videotapes, drawings, and other tangible things that pertain in any way to the subject matter of this suit.

RESPONSE: None at this time.

REQUEST 6: Produce copies of complaints or petitions in any action filed by or against You in which the allegations are similar to those of this suit.

RESPONSE: Opposer objects to this Request as Applicant has equal or greater access to the complaint or petition filed in *Joel L. Beling d/b/a Supa Characters Pty Ltd v. Ennis, Inc.; Cancellation No. 92055374*.

REQUEST 7: Produce copies of any claim made by or against You for damages similar to those alleged in this suit.

RESPONSE: None.

REQUEST 8: Produce all oral or written statements made by You or Your representatives concerning this suit.

RESPONSE: None.

REQUEST 9: Produce all documents and things relating to the creation, consideration, design, development, selection, adoption, and first use of the "COLORWORX" mark or any work of color (including black and white) or service.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 10: Produce representative specimens of each label, container, trade dress, wrapper, packaging, letterhead, sign, catalog, brochure, or other materials used to advertise, market, sell, promote, or otherwise commercialize any of the services or works of color (including black and white), sold, marketed, promoted or advertised by Opposer relating to the "COLORWORX" mark.

RESPONSE: Opposer refers Applicant to Opposer's document production produced on May 24, 2012, and to the United States Patent and Trademark Office, Trademark Electronic Search System.

REQUEST 11: Produce all documents and things relating to the geographic areas where services or works of color (including black and white) relating to Opposer's "COLORWORX" mark are advertised, marketed, sold, or promoted and the length of time each work of color (including black and white) or services has been advertised, marketed, sold, or promoted in each area.

RESPONSE: Opposer is currently offering goods and services worldwide via the Internet and through qualified dealers. Opposer refers Applicant to Opposer's document production produced on May 24, 2012.

REQUEST 12: Produce all documents and things relating to the distribution channels through which works of color (including black and white) or services relating to Opposer's "COLORWORX" mark are advertised, marketed, sold, or promoted.

RESPONSE: Opposer is currently offering goods and services worldwide via the Internet and through qualified dealers. Opposer refers Applicant to Opposer's document production produced on May 24, 2012.

REQUEST 13: Produce all documents and things relating to the classes of customers to whom You advertise, market, sell, or promote works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer is currently offering goods and services worldwide via the Internet and through qualified dealers. Opposer refers Applicant to Opposer's document production produced on May 24, 2012.

REQUEST 14: Produce all documents and things relating to the yearly dollar and unit volume of sales to date and projected future dollar and unit volume of sales for each of the works of color (including black and white) or services produced by Opposer in connection with the "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 15: Produce all documents and things relating to variable and fixed costs for sales of works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 16: Produce all documents and things relating to gross and net profits from sales of works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 17: Produce all documents and things relating to the yearly cost to You of advertising, marketing, selling, and promoting works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 18: Produce all documents and things concerning Your past, present, and future plans to advertise, market, sell, or promote works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 19: Produce representative specimens of all advertising and other promotional materials for works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer refers Applicant to Opposer's document production produced on May 24, 2012, which shows representative specimens.

REQUEST 20: Produce all documents and things relating to Your yearly expenses to date and planned future expenses corresponding to each type of advertising and promotion used for works of color (including black and white) or services relating to Opposer's "COLORWORX" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 21: Produce documents and things relating to Applicant's intended and/or proposed works of color (including black and white) or services utilizing the "ColorWorx" mark.

RESPONSE: Opposer objects to this Request as it is overbroad, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's document production produced on May 24, 2012, which shows representative specimens. Opposer is continuously updating the goods and services it offers under the mark COLORWORX and reserves the right to supplement its Response during the pendency of discovery in this matter.

REQUEST 22: Produce all documents and things You contend supports Your contention that Applicant's "COLOR WARS" mark does resemble "COLORWORX[®]" when used on or in connection with Your goods and services.

RESPONSE: Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 23: Produce all documents and things You contend supports Your contention that registration of Applicant's "COLOR WARS" mark will injure Opposer by causing the trade/or purchasing public to be confused and/or deceived.

RESPONSE: Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 24: Produce all documents and things You contend supports Your contention that registration of Applicant's "COLOR WARS" mark will injure Opposer by causing the trade/or purchasing public to be confused and/or deceived into believing that Applicant's Goods are those of Opposer or are sponsored by Opposer.

RESPONSE: Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 25: Produce all documents and things You contend supports Your contention that registration of Applicant's "COLOR WARS" mark will injure Opposer by placing a cloud over Opposer's title to its "COLORWORX[®]" mark.

RESPONSE: Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 26: Produce all documents and things You contend supports Your contention that Applicant's "COLOR WARS" mark is the same, or substantially the same, as Opposer's mark "COLORWORX[®]" including in visual appearance and in pronunciation.

RESPONSE: Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 27: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 3 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 28: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 5 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is duplicative, irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 29: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 6 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 30: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 7 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 31: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 8 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 32: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 9 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 33: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 10 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, and requires Opposer to marshal its evidence prior to trial. Subject to, and without waiving, the foregoing objections, Opposer refers Applicant to Opposer's Notice of Opposition and Opposer's document production produced on May 24, 2012.

REQUEST 34: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 11 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 35: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 12 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 36: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 13 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 37: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 14 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 38: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 15 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 39: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 16 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Opposer asserts the attorney-client and work-product privileges.

REQUEST 40: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 17 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 41: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 18 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST 42: Produce all documents and things relating to the information requested to be identified in Interrogatory No. 19 of Applicant's First Set of Interrogatories to Opposer.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Opposer asserts the attorney-client and work-product privileges.

REQUEST 43: Produce all documents and things relating to the financial health of the ColorWorx mark, including all documents and things submitted to and received from the Internal Revenue Service and all accounting documents.

RESPONSE: Opposer objects to this Request as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

Dated: June 11, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 

Scott A. Meyer

State Bar No. 24013162

Thomas G. Jacks

State Bar No. 24067681

14951 N. Dallas Parkway, Suite 400

Dallas, Texas 75254

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(214) 866-0010 (telecopy)

smeyer@chalkerflores.com

tjacks@chalkerflores.com

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S OBJECTIONS AND RESPONSE TO APPLICANT'S FIRST REQUEST FOR PRODUCTION was served on all parties, this the 11th day of June, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Scott A. Meyer

Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Petitioner)	
)	
)	Cancellation No. 92055374
v.)	
)	
)	Registration No. 3,372,884
)	Mark: COLORWORX
)	
Ennis, Inc.)	
)	
Registrant)	
)	
)	

To: Joel L. Beling d/b/a Supa Characters Pty Ltd, Applicant, 1 Mirboo Court, Dallas,
Victoria 3047, Australia.

I.
OBJECTIONS APPLICABLE TO ALL
INTERROGATORIES, INSTRUCTIONS AND DEFINITIONS

PAGE 1

Registrant further objects to the definitions and instructions set forth in Petitioner's First Set of Interrogatories to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Registrant will use the commonly accepted definition of words and phrases in answering the Interrogatories.

Registrant hereby objects to all of the above-referenced definitions in each and every Interrogatory in which they are used as if objected to on the above-stated basis individually, and Registrant answers all Interrogatories listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: In approximate percentage terms, apportion Registrant's customer orders by their primary reason for customer use of Registrant's goods and services (eg. business, personal, other), with each order given one reason for use.

ANSWER: The primary reason for customer's use and the apportionment of such use of Registrant's goods and services is irrelevant to this matter and therefore, Registrant objects to this Interrogatory as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory because the phrase "with each order given one reason for use" is vague and ambiguous. Registrant further objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought to Registrant's COLORWORX mark. Registrant further objects to this Interrogatory because it seeks information to which Petitioner has equal access.

INTERROGATORY NO. 2: Identify each trader who uses the business name "ColorWorx," "Color Worx," "ColorWorks," and/or "Color Works" anywhere in the world which officers from Ennis Inc (not Ennis Inc's attorneys or agents) have become aware of either prior to and/or since first using the COLORWORX mark and the approximate date of such awareness for each trader.

ANSWER: The identity of each trader who uses the business name "ColorWorx," "Color Worx," "ColorWorks," and/or "Color Works" outside the United States is irrelevant and, therefore, Registrant objects to this Interrogatory as it is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory because the phrase "identify each trader who uses the business name 'ColorWorx,' 'Color

Worx,' 'ColorWorks,' and/or 'Color Works'" is overbroad, vague and ambiguous. Registrant further objects to this Interrogatory because it seeks information that is overbroad in scope. Registrant further objects to this Interrogatory because the phrase "the approximate date of such awareness for each trader" is overbroad, vague and ambiguous. Additionally, Registrant asserts the attorney-client and work-product privileges.

INTERROGATORY NO. 3: Identify each trader who uses the four-color printing process anywhere in the world which officers from Ennis Inc (not Ennis Inc's attorneys or agents) are aware of and the approximate date of such awareness for each trader.

ANSWER: The identity of each trader who uses the four-color printing process anywhere in the world is irrelevant and, therefore, Registrant objects to this Interrogatory as it is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory because the phrase "identify each trader who uses the four-color printing process anywhere in the world" is overbroad, vague and ambiguous. Registrant further objects to this Interrogatory because it seeks information that is overbroad in scope. Registrant further objects to this Interrogatory because the phrase "the approximate date of such awareness for each trader" is overbroad, vague and ambiguous. Additionally, Registrant asserts the attorney-client and work-product privileges.

INTERROGATORY NO. 4: Describe in detail how you say the word "Worx" in your registration differs in meaning from the word "works."

ANSWER: How Registrant says the word "Worx" differs from the word "Works" is irrelevant and therefore, Registrant objects to this Interrogatory as it is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects that this Interrogatory is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial because Registrant's registered mark is "COLORWORX" not "WORX."

INTERROGATORY NO. 5: Identify and describe each type of work of color sold, promoted, advertised or marketed by you.

ANSWER: Registrant objects to this Interrogatory because the phrase "each type of work of color sold, promoted, advertised or marketed by you" is overbroad, vague and ambiguous. Registrant further objects to this Interrogatory as it is irrelevant, overbroad, vague, and ambiguous because it does not limit the information sought to Registrant's COLORWORX mark. Registrant further objects to this Interrogatory because the phrase "work of color" is overbroad, vague and

ambiguous. Subject to, and without waiving, the foregoing objections, Registrant refers Petitioner to Registrant's documents produced in this matter with Registrant's Initial Disclosures.

INTERROGATORY NO. 6: Describe in detail how you say the word "Worx" in your registration differs in appearance from the word "works."

ANSWER: How Registrant says the word "Worx" differs from the word "Works" is irrelevant and therefore, Registrant objects to this Interrogatory as it is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects that this Interrogatory is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial because Registrant's registered mark is "COLORWORX" not "WORX."

INTERROGATORY NO. 7: Describe in detail how you say the word "Worx" in your registration differs in commercial impression from the word "works."

ANSWER: How Registrant says the word "Worx" differs from the word "Works" is irrelevant and therefore, Registrant objects to this Interrogatory as it is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects that this Interrogatory is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial because Registrant's registered mark is "COLORWORX" not "WORX."

INTERROGATORY NO. 8: Describe in detail how the compound word "COLORWORX" in your registration differs from the words "Color Works" in terms of meaning, appearance, sound and commercial impression.

ANSWER: The mark "COLORWORX" differs from the words "Color Works" in terms of meaning, appearance, sound and commercial impression because the mark "COLORWORX" is a neologism and had no meaning prior to its adoption by Registrant.

INTERROGATORY NO. 9: Given that you have not produced, sold, marketed, promoted or advertised goods and services in international class 41 and the fact that you deny your opposition to my "Color Wars" mark is based on dilution, describe (in more detail than that provided in your Notice of Opposition) the basis for your Opposition to my registration of the "Color Wars" mark as it pertains to international class 41.

ANSWER: Registrant objects to this Interrogatory because the basis for any Opposition is irrelevant and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory as irrelevant because, by Petitioner's choice, the Opposition is a separate matter and will be treated as such.

INTERROGATORY NO. 10: Identify and describe in detail all goods and services sold by you which are not sold under the "Colorworx" mark.

ANSWER: Registrant objects to this Interrogatory because the identity and description of all goods and services sold by Registrant which are not sold under the "COLORWORX" mark is irrelevant and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory because the phrase "identify and describe in detail all goods and services" is overbroad, vague and ambiguous."

INTERROGATORY NO. 11: Describe in detail the role of and connection to Admore in the production, sale, promotion and advertising of goods and services related to the "ColorWorx" mark, including officers, trade channels, modes of production, geographical areas of business and sales figures.

ANSWER: Registrant objects to this Interrogatory as it is overbroad, harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to this Interrogatory because it seeks information to which Petitioner has equal access. Subject to, and without waiving, the foregoing objection, Registrant answers as follows: Admore is a subsidiary of Ennis, Inc. The officers of Ennis, Inc. include: Keith S. Walters, Chairman, CEO and President; Michael D. Magill, Executive Vice President; Richard L. Travis, Jr., Vice President of Finance and CFO; Ronald M. Graham, Vice President of Administration; Irshad Ahmad, President of Alstyle Apparel and Chief Technology Officer. Registrant further refers Petitioner to the documents produced in this matter with Registrant's Initial Disclosures for information related to the additional information sought herein.

INTERROGATORY NO. 12: Identify and describe each type of color works sold, promoted, advertised or marketed by you.


ANSWER: Registrant objects to this Interrogatory because the phrase "each type of color works sold, promoted, advertised or marketed by you" is vague and ambiguous. Registrant further objects to this Interrogatory as it is irrelevant, overbroad, vague, and ambiguous because it does not limit the information sought to Registrant's COLORWORX mark. Registrant further objects to this Interrogatory because it seeks information to which Petitioner has equal access. Subject to, and without

waiving, the foregoing objections, Registrant refers Petitioner to the documents produced in this matter with Registrant's Initial Disclosures.

Dated: July 13, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 

Scott A. Meyer

State Bar No. 24013162

Thomas G. Jacks

State Bar No. 24067681

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Dallas, Texas 75254

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tjacks@chalkerflores.com

ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT'S OBJECTIONS AND ANSWERS TO REGISTRANT'S FIRST SET OF INTERROGATORIES was served on all parties, this the 13th day of July, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Thomas G. Jacks

Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Petitioner)	
)	
)	
v.)	Cancellation No. 92055374
)	
)	
)	Registration No. 3,372,884
)	Mark: COLORWORX
)	
Ennis, Inc.)	
)	
Registrant)	
)	
)	

Ennis, Inc. ("Registrant") serves these objections and answers to Petitioner, Joel L. Beling d/b/a Supa Characters Pty Ltd's Interrogatories ("Petitioner") as authorized by Federal Rule of Civil Procedure 33 and Trademark Rule 2.120(d), 37 C.F.R. § 2.120(d).

Registrant agrees to answer Petitioner's Interrogatories to the extent that Registrant is required to do so by the Federal Rules of Civil Procedure and the applicable case law, and to the extent that such are not otherwise objectionable.

Registrant further objects to the definitions and instructions set forth in Petitioner's Second Set of Interrogatories to the extent that it purports to assign to the words therein defined meanings other than those in common usage. Registrant will use the commonly accepted definition of words and phrases in answering the Interrogatories.

Registrant hereby objects to all of the above-referenced definitions in each and every Interrogatory in which they are used as if objected to on the above-stated basis individually, and Registrant answers all Interrogatories listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 13: Identify and describe every major decision of your business relating to the registration of COLORWORX mark and/or the use of the registered COLORWORX mark that you say you made acting exclusively upon the advice of a lawyer, identifying the law firm and individual lawyers who advised you in relation to each decision (you do not need to say what the decision was, merely identify and describe the topic for which advice was received).

ANSWER: Registrant objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought. Registrant further objects to this Interrogatory because the phrase "every major decision" is overbroad, vague, and ambiguous. Additionally, Registrant asserts the attorney-client and work-product privileges.

INTERROGATORY NO. 14: Identify all documents, communications and things related to the COLORWORX mark in your possession, custody or control to which you say the work product privilege applies, separating those documents, communications and things into two categories: the first relating to "fact" or "ordinary" work product (also described as "tangible" work product") and the second relating to "opinion" or "core" work product (also described as "intangible" work product).

ANSWER: Registrant objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought.

INTERROGATORY NO. 15: Identify every domain name (relating to a website) that you are aware of which uses the words "COLORWORX," "COLOR WORX," "COLOR WORKS," and/or "COLORWORKS" and describe the role and identity of every person involved who played a part in selecting the domain name.

ANSWER: Registrant objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought. Registrant further objects to this Interrogatory because it seeks information to which Petitioner has equal access. Subject to, and without waiving, the foregoing objections, other than Registrant's website related to its COLORWORX mark, Registrant does not know "the role and identity of every person involved who played a part in selecting the domain name" for those referenced in this Interrogatory.

INTERROGATORY NO. 16: Identify all officers of Ennis Inc, documents, communications and things related to the COLORWORX mark in your possession, custody or control to which you say the attorney-client privilege applies, separating those documents, communications and things into the following categories of attorney-client privilege: the control group test, the subject matter test, and/or the "modified Harper & Row test" and/or the "Diversified Industries test."

ANSWER: Registrant objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought. Registrant further objects to this Interrogatory as it is duplicative because it seeks information that was previously requested in Petitioner's Interrogatory No. 11.

INTERROGATORY NO. 17: Identify every officer of Ennis Inc and every lawyer that you are aware of who has made oral or written statements concerning other businesses who use the words "COLORWORX," "COLOR WORX," "COLOR WORKS," and COLORWORKS."

ANSWER: Registrant objects to this Interrogatory as it is overbroad, vague, and ambiguous because it does not limit the information sought. Registrant further objects to this Interrogatory because it is not related to any claim pending claim in this matter and, therefore, is harassing, irrelevant, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Registrant asserts the attorney-client and work-product privileges.

Dated: July 25, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 


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ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT'S OBJECTIONS AND ANSWERS TO OPPOSER'S SECOND SET OF INTERROGATORIES was served on all parties, this the 25TH day of July, 2012, by sending the same via electronic mail, to the following:

Joel L. Beling
1 Mirboo Court
Dallas, Victoria 3047
Australia
joelbeling@hotmail.com



Scott A. Meyer

Joel L. Beling d/b/a Supa Characters Pty Ltd)	
)	
Petitioner)	
)	
)	
v.)	Cancellation No. 92055374
)	
)	
)	Registration No. 3,372,884
)	Mark: COLORWORX
Ennis, Inc.)	
)	
Registrant)	
)	
)	

PAGE 1

meanings other than those in common usage. Registrant will use the commonly accepted definition of words and phrases in responding to the Admissions.

Registrant hereby objects to all of the above-referenced definitions in each and every request in which they are used as if objected to on the above-stated basis individually, and Registrant responds to all Admissions listed below subject to, and without waiving, the above-stated objections.

II. OBJECTIONS AND RESPONSES TO REQUEST FOR ADMISSIONS

REQUEST NO. 1: The majority (ie. at least more than 60 per cent) of Registrant's customers use Registrant's goods and services for business purposes.

RESPONSE: The percentage of Registrant's customers that use Registrant's goods and services for business purposes is irrelevant to this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad, vague and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 2: You sell color works such as business cards, letterhead, rack cards, postcards, brochures and posters.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 3: Ennis Inc (not its attorneys or agents) conducted an internet search of the word "ColorWorx" and/or "Color Worx" prior to applying for registration of the "ColorWorx" mark.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 4: Ennis Inc (not its attorneys or agents) conducted an internet search of the word(s) "ColorWorks" and/or "Color Works" prior to applying for registration of the "ColorWorx" mark.

RESPONSE: Registrant objects to the request because whether Registrant conducted an

internet search for the words "ColorWorks" and/or "Color Works" is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Additionally, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 5: The goods your customers order from you are very important to the customers.

RESPONSE: Whether the goods are very important to the customers is irrelevant to this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad, vague and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 6: Your customers who use your services and goods for business purposes take a significant amount of time in preparing their materials before ordering prints and printed materials from you.

RESPONSE: Whether customers take a significant amount of time in preparing their materials before ordering prints and printed materials is irrelevant to this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad, vague and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 7: Your customers who use your services and goods for personal reasons take a significant amount of time in preparing their materials before ordering prints and printed materials from you.

RESPONSE: Whether customers take a significant amount of time in preparing their materials before ordering prints and printed materials is irrelevant to this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad, vague and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 8: You offer a number of types of printed works for sale to your customers including but not limited to business cards, letterhead, rack cards, postcards, brochures and posters.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 9: Color is an optional choice for the printed works (including but not limited to business cards, letterhead, rack cards, postcards, brochures and posters) you sell to your customers.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark and because the term "printed works" is vague and ambiguous.

REQUEST NO. 10: Registrant claims the exclusive right to use the letters "C-o-l-o-r" in Registrant's Registration.

RESPONSE: Admitted to the extent the request has any bearing on Registrant's rights in and to its registered COLORWORX mark.

REQUEST NO. 11: Registrant claims the exclusive right to use of the word "Works" in relation to printed matter and printing services.

RESPONSE: Admitted to the extent the request has any bearing on Registrant's rights in and to its registered COLORWORX mark.

REQUEST NO. 12: Registrant's customers use the word "ColorWorx" to describe Registrant's business name because it is a successful brand in the printing industry with a high volume of sales.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 13: Registrant's customers always, without a single exception in the history of Ennis Inc, use the word "ColorWorx" to describe Registrant's business name.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 14: Other traders use the compound word "ColorWorx" to describe their business.

RESPONSE: Denied to the extent the request has any bearing on Registrant's rights in and to its registered COLORWORX mark.

REQUEST NO. 15: Registrant claims the exclusive right to use of the word "Worx" in relation to printed matter and printing services.

RESPONSE: Admitted to the extent the request has any bearing on Registrant's rights in and to its registered COLORWORX mark.

REQUEST NO. 16: Leaving aside and independent of Registrant's logo/design, the word

“Colorworx” in Registrant’s mark is highly distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

RESPONSE: Registrant admits that its COLORWORX mark is distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

REQUEST NO. 17: Leaving aside and independent of Registrant’s logo/design, the word “Colorworx” in Registrant’s mark is distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

RESPONSE: Registrant admits that its COLORWORX mark is distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

REQUEST NO. 18: Leaving aside and independent of Registrant’s logo/design, the word “Colorworx” in Registrant’s mark is moderately distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

RESPONSE: Registrant admits that its COLORWORX mark is distinctive and capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

REQUEST NO. 19: Leaving aside and independent of Registrant’s logo/design, the word “Colorworx” in Registrant’s mark is weak and not capable of distinguishing Registrant’s goods and services from the goods and services of other traders.

RESPONSE: Denied.

REQUEST NO. 20: You did not oppose my application for registration of the “Color Wars” mark in international class 28 because there is no likelihood of confusion between it and your “ColorWorx” mark.

RESPONSE: Denied.

REQUEST NO. 21: You did not oppose my application for registration of the “Color Wars” mark in international class 28 because you do not sell goods and services in this class and have no future plans on doing so.

RESPONSE: Denied.

REQUEST NO. 22: If my “Color Wars” applications for trademark registration in the United States in international class 25 were commercially related to my “Color Wars” applications for trademark registration in the United States which you opposed (that is, in classes 16 and 41), you would believe it is less likely that there is a likelihood of confusion between the “Color Wars” mark and the “ColorWorx” mark.

RESPONSE: Denied.

REQUEST NO. 23: If my "Color Wars" application for trademark registration in the United States in international class 28 was commercially related to my "Color Wars" applications for trademark registration in the United States which you opposed (that is, in classes 16 and 41), you would believe it is less likely that there is a likelihood of confusion between the "Color Wars" mark and the "ColorWorx" mark.

RESPONSE: Denied.

REQUEST NO. 24: If my "Color Wars" applications for trademark registration in the United States in international class 25 were commercially related to my "Color Wars" applications for trademark registration in the United States which you opposed (that is, in classes 16 and 41), the general public would believe it is less likely that there is a likelihood of confusion between the "Color Wars" mark and the "ColorWorx" mark.

RESPONSE: Denied.

REQUEST NO. 25: If my "Color Wars" application for trademark registration in the United States in international class 28 was commercially related to my "Color Wars" applications for trademark registration in the United States which you opposed (that is, in classes 16 and 41), the general public would believe it is less likely that there is a likelihood of confusion between the "Color Wars" mark and the "ColorWorx" mark.

RESPONSE: Denied.

REQUEST NO. 26: The general public's aural comprehension of the word "ColorWorx" derives from its high exposure to Registrant's business and/or works of color and printing services.

RESPONSE: Admitted to the extent the request has any bearing on Registrant's rights in and to its registered COLORWORX mark.

REQUEST NO. 27: Prior to adopting the word "ColorWorx" as its business name, Ennis Inc (not its attorneys or agents) conducted an internet search of the word "ColorWorx" and/or "Color Worx."

RESPONSE: Registrant's actions prior to adopting the mark COLORWORX are irrelevant in this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad because it does not limit the request to Registrant's COLORWORX mark. Further, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 28: Prior to adopting the word "ColorWorx" as its business name, Ennis Inc (not its attorneys or agents) conducted an internet search of the word(s) "ColorWorks" and/or "Color Works."

RESPONSE: Registrant objects to the request because whether Registrant conducted an internet search for the words "ColorWorks" and/or "Color Works" is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects because its actions prior to adopting the mark COLORWORX are irrelevant in this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad because it does not limit the request to Registrant's COLORWORX mark. Registrant further objects because this request is duplicative. Further, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 29: Prior to adopting the word "ColorWorx" as its business name, Ennis Inc (not its attorneys or agents) conducted a thorough check and search of all commercial uses of the word "ColorWorx" and/or "Color Worx."

RESPONSE: Registrant's actions prior to adopting the mark COLORWORX are irrelevant in this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad because it does not limit the request to Registrant's COLORWORX mark. Further, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 30: Prior to adopting the word "ColorWorx" as its business name, Ennis Inc (not its attorneys or agents) conducted a thorough check and search of all commercial uses of the word(s) "ColorWorks" and/or "Color Works."

RESPONSE: Registrant objects to the request because whether Registrant conducted an a search for the words "ColorWorks" and/or "Color Works" is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects because its actions prior to adopting the mark COLORWORX are irrelevant in this matter and, therefore, Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. Registrant further objects to the request in that it is overbroad because it does not limit the request to Registrant's COLORWORX mark. Registrant further objects because this request is duplicative. Further, Registrant asserts the attorney-client and work-product privileges.

REQUEST NO. 31: You are aware and have been aware that committing fraud on the United States Patent and Trade Mark Office in respect of registering a trademark is a very serious offence.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. This request clearly has nothing to do with the merits of the cancellation.

REQUEST NO. 32: You are aware and have been aware that committing fraud on the United States Patent and Trade Mark Office when registering a trademark is a very serious offence and, as a result of such awareness, you have taken all necessary precautions and done all due diligence to ensure that no fraud was committed on the USPTO when you registered the "Colorworx" mark.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. This request clearly has nothing to do with the merits of the cancellation.

REQUEST NO. 33: Although taking all necessary precautions and doing all due diligence, it is still possible that you may have committed fraud on the USPTO when you registered the "ColorWorx" mark.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. This request clearly has nothing to do with the merits of the cancellation.

REQUEST NO. 34: Because of the precautions you have taken and due diligence you have done, it is impossible that you may have committed fraud on the USPTO when you registered the "ColorWorx" mark.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. This request clearly has nothing to do with the merits of the cancellation.

REQUEST NO. 35: Because of the precautions you have taken and due diligence you have done, it is very unlikely that you may have committed fraud on the USPTO when you registered the "ColorWorx" mark.

RESPONSE: Registrant objects to the request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial. This request clearly has nothing to do with the merits of the

cancellation.

REQUEST NO. 36: Registrant claims the exclusive right to use of the word “Worx” in relation to printed matter and printing services.

RESPONSE: Admitted to the extent the request has any bearing on Registrant’s rights in and to its registered COLORWORX mark.

REQUEST NO. 37: You do not and have not used the logo/design contained in your registered mark on all of your products and services and promotional and/or advertising material.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 38: You often use taglines and/or slogans with your registered mark in the sale, promotion, or advertising of your goods and services.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 39: The taglines and/or slogans you use help to distinguish your goods and services from the goods and services of other traders.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 40: The taglines and/or slogans you use help to significantly distinguish your goods and services from the goods and services of other traders.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 41: You use the tagline/slogan “Economical four color process printing” with your registered mark on the majority of your advertisements and/or promotional materials for your goods and services.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 42: The words “Economical four color process printing” are a distinguishing feature of your printing business.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant’s COLORWORX mark.

REQUEST NO. 43: The words “Economical four color process printing” are a significant

distinguishing feature of your printing business.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 44: The words "Economical four color process printing," used together with your registered mark, help distinguish your goods and services from the goods and services of other traders.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 45: The words "Economical four color process printing," used together with your registered mark, help significantly distinguish your goods and services from the goods and services of other traders.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 46: You use logos/designs with the word "ColorWorx" on your advertising and promotional material which is not the same as or substantially similar to the logo/design in your registered mark.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 47: The fact that you do not always use the logo/design in your registered mark in your promotional and advertising material shows that it is not a significant component of the ColorWorx brand.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

REQUEST NO. 48: The four colors on color versions of the logo/design in your registered mark (approximately pink, yellow, blue and black) are a significant distinguishing feature of your ColorWork mark.

RESPONSE: Registrant's mark is COLORWORX not ColorWork and therefore objects to this request as it is irrelevant, harassing, and not reasonably calculated to lead to the discovery of evidence admissible at trial.

REQUEST NO. 49: Your use of four color process printing helps to distinguish your goods and services from the goods and services of the majority of other traders in the printing industry, who use all colors in their printing process.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous

because it does not limit the request to Registrant's COLORWORX mark.


REQUEST NO. 50: Your use of four color process printing helps to significantly distinguish your goods and services from the goods and services of the majority of other traders in the printing industry, who use all colors in their printing process.

RESPONSE: Registrant objects to the request as it is overbroad, vague, and ambiguous because it does not limit the request to Registrant's COLORWORX mark.

Dated: July 13, 2012

Respectfully submitted,

CHALKER FLORES, LLP

By: 

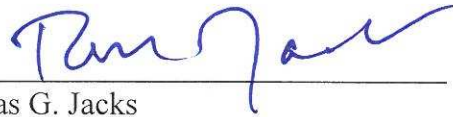
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ATTORNEYS FOR REGISTRANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REGISTRANT'S OBJECTIONS AND ANSWERS TO PETITIONER'S FIRST REQUEST FOR ADMISSIONS was served on all parties, this the 13th day of July, 2012, by sending the same via electronic mail, to the following:

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Thomas G. Jacks